

| <b>Notice of Allowability</b> | <b>Application No.</b> | <b>Applicant(s)</b>   |  |
|-------------------------------|------------------------|-----------------------|--|
|                               | 09/658,084             | GOPALAKRISHNAN ET AL. |  |
|                               | <b>Examiner</b>        | <b>Art Unit</b>       |  |
| Robert W Wilson               |                        | 2661                  |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 8/20/04.
2.  The allowed claim(s) is/are 1-23 & 26 (Renumbered 1-24).
3.  The drawings filed on 30 April 2004 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 10/13/04.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.



KENNETH VANDERPUYE  
PRIMARY EXAMINER

## **DETAILED ACTION**

**1.0** The application of Gopalakrishnan et. al. entitled INTEGRATING POWER-CONTROLLED AND RATE-CONTROLLED TRANSMISSIONS ON A SAME FREQUENCY CARRIER filed on 9/11/2000 without foreign priority and amended on 8/20/04 was examined. Claims 1-23 & 26 are pending.

## **EXAMINER'S AMENDMENT**

**2.0** In Claim 22, add the word “future” after the phrase “receiving an indication of a data rate based on” and before the phrase “available transmit power at the transmitter and the measured signal-to-interference”

### ***Allowable Subject Matter***

**3.0** The present invention is directed to a method of determining data rate comprising the steps of: receiving available power message at the receiver indicating future available transmit power at a transmitter, performing signal-to-interference measurement at the receiver for a signal transmitted by the transmitter, and determining a data rate using available future available transmit power and measured signal-to-interference ratios.

The closest prior art is Vanghi (U.S. Patent No.: 6,393,276). Vanghi (U.S. Patent No.: 6,393,276) teaches that the mobile station or receiver measures and reports the SNR or signal to interference of the received pilot signal from the base. In the same message that the mobile station reports the SNR the mobile requests a data rate from the base. The base receives the SNR and responds by computing power and the data rate.

The closest prior art Vanghi (U.S. Patent No.: 6,393,276) does not either singularly or in combination anticipate or render the following claim limitations obvious:

“receiving an available power message at the receiver indicating future transmit power” and “determining a data rate using the future available transmit power and measured signal-to-interference ratio” as claimed in Claim 1.

“transmitting an available power message to the receiver indicating future available power at a transmitter” and “wherein the data rate is based on signal-to interference measurement made at the receiver and available power message” as claimed in Claim 14.

Art Unit: 2661

"receiving an indication of a data rate based on future available transmit power at the transmitter and the measured signal-to-interference" as claimed in Claim 22.

**In Addition:**

**Claims 2-13 & 26** are allowed because they depend upon **Claim 1**.

**Claims 15-21** are allowed because they depend upon **Claim 14**.

**Claims 26** is allowed because it depends upon **Claim 22**.

**CONCLUSION**

**4.0** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Huh et. al., Patent No.: 6,782,271 B2, dated August 24, 2004 discloses an access terminal measures C/I of a forward pilot channel, determines a forward data rate by matching the measured C/I with a reference C/I, creates a difference between the measured C/I and the reference C.I as margin information, and transmits the determined forward data rate.

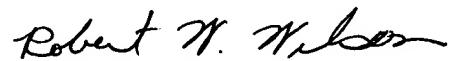
Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on 571/272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert W Wilson  
Examiner  
Art Unit 2661

RWW  
October 13, 2004



KENNETH VANDERPUYE  
PRIMARY EXAMINER